

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Charis Jones	Team: Squad #03	CCRB Case #: 202005055	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 05/25/2020 12:50 AM	Location of Incident: 6 train stop at the 51st Street subway station.	18 Mo. SOL 5/4/2022	Precinct: 17		
Date/Time CV Reported Thu, 07/16/2020 1:45 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 07/16/2020 1:45 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Adonis Long	02881	936972	TB DT04
2. POM Shimul Saha	8443	967680	TB DT04

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Luke Layton	22944	965257	TB DT04
2. POM Danil Demchenko	13110	967478	TB DT04
3. POM Princeton Burke	07540	968299	TB DT04
4. POM Steven Wood	00577	947616	TB DT04
5. SGT Christopher Alazraki	05511	949978	TD 4
6. PO Matthew Ling	14248	961891	TD 4
7. PO Octavio Carlo	10974	955786	TD 4

Officer(s)	Allegation	Investigator Recommendation
A . POM Adonis Long	Abuse: Police Officer Adonis Long threatened § 87(2)(b) with the use of force.	
B . POM Adonis Long	Untruthful Stmt.: Police Officer Adonis Long provided a false official statement to the CCRB.	
C . POM Adonis Long	Force: Police Officer Adonis Long used physical force against § 87(2)(b)	
D . POM Adonis Long	Discourtesy: Police Officer Adonis Long spoke discourteously to § 87(2)(b)	
E . POM Adonis Long	Force: Police Officer Adonis Long used physical force against § 87(2)(b)	
F . POM Adonis Long	Discourtesy: Police Officer Adonis Long acted discourteously toward § 87(2)(b)	
G . POM Adonis Long	Force: Police Officer Adonis Long used pepper spray against § 87(2)(b)	
H . POM Adonis Long	Force: Police Officer Adonis Long used pepper spray against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
I . POM Adonis Long	Force: Police Officer Adonis Long used physical force against § 87(2)(b)	
J . POM Adonis Long	Force: Police Officer Adonis Long used a chokehold against § 87(2)(b)	
K . POM Adonis Long	Force: Police Officer Adonis Long used a chokehold against § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		

Case Summary

On July 16, 2020, an § 87(2)(b) complaint was filed on behalf of § 87(2)(b) via email to the CCRB. Investigator Michael Miskovski received the case on July 16, 2020. On July 18, 2020, reporting non-witness § 87(2)(b) filed a complaint with IAB via email regarding this incident. The CCRB received § 87(2)(b) complaint on August 12, 2020. On July 21, 2020, reporting non-witness § 87(2)(b) filed a complaint with the CCRB via email and the call processing system on regarding this incident. On July 22, 2020, reporting non-witness § 87(2)(b) filed a complaint via the CCRB call processing system regarding this incident. On September 22, 2020, this complaint was closed pending litigation because of § 87(2)(b) criminal case per the request of § 87(2)(b) criminal attorney § 87(2)(b) of The Legal Aid Society. On May 5, 2021, the case was reopened at the request of § 87(2)(b) civil attorney § 87(2)(b). On May 5, 2021, the case was reassigned to the undersigned investigator.

On May 25, 2020, at approximately 12:50 a.m., Police Officer Adonis Long and Police Officer Shimul Saha, both assigned to Transit Bureau District Transit 4 (TB DT04), ordered § 87(2)(b) to exit the northbound 6 train at the 51st Street subway station in Manhattan. PO Long said to § 87(2)(b) “Get off the train or I’m going to drag you off” (**Allegation A: Abuse of Authority,** § 87(2)(g)). PO Long provided a false official statement to the CCRB about the portion of the incident that preceded him punching § 87(2)(b) (**Allegation B: Untruthful Statement,** § 87(2)(g)). PO Long punched § 87(2)(b) in the face twice (**Allegation C: Force,** § 87(2)(g)). PO Long said to § 87(2)(b) “Get off the fucking train” (**Allegation D: Discourtesy,** § 87(2)(g)). PO Long dragged § 87(2)(b) off the train and threw him to the ground (**Allegation E: Force,** § 87(2)(g)). PO Long kicked § 87(2)(b) items (**Allegation F: Discourtesy,** § 87(2)(g)). PO Long used pepper spray against § 87(2)(b) twice (**Allegations G and H: Force,** § 87(2)(g)). PO Long pulled § 87(2)(b) hair (**Allegation I: Force,** § 87(2)(g)). PO Long used a chokehold against § 87(2)(b) twice (**Allegations J and K: Force,** § 87(2)(g)).

§ 87(2)(b) was arrested for resisting arrest and obstruction of governmental administration (Board Review 01).

The investigation obtained body-worn-camera (BWC) recordings of PO Long and PO Saha, which captured the incident in its entirety (Board Reviews 02, 03, 24). The investigation also obtained the BWC footage of Police Officer Danil Demchenko, Police Officer Luke Layton, Police Officer Princeton Burke, and Police Officer Steven Wood, Police Officer Matthew Ling, and Police Officer Octavio Carlo, all of whom are assigned to TB DT04, who responded to the incident location after the incident had concluded (Board Reviews 25-30). None of these officers’ footage captured the incident.

The investigation also obtained the YouTube video submitted by The Legal Aid Society, which shows portions of this incident in a montage format (Board Review 04). The investigation also obtained surveillance footage from MTA from the incident date, however, it did not capture the incident (Board Review 31).

The Transit Bureau Investigations Unit (“TB INV”) conducted a concurrent investigation into this incident, which generated log # § 87(2)(b) (Board Review 32). TB INV investigated the following allegations against PO Long: use of physical force (twice,) which were closed as exonerated and “information and intelligence,” the use of force-level 2, which was closed “information and intelligence,” use of OC Spray (twice), which were closed as exonerated and “information and intelligence,” and memo book/incomplete/improper, which was unfounded. The TB INV investigated the following allegations against PO Saha: use of physical force, which was exonerated, and the use of force-level 2, which was closed as “information and intelligence.” The investigation did not receive the

GO-15 interview recordings for this case.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Adonis Long threatened § 87(2)(b) with the use of force.

Allegation (B) Untruthful Statement: Police Officer Adonis Long provided a false official statement to the CCRB

Allegation (C) Force: Police Officer Adonis Long used physical force against § 87(2)(b)

Allegation (D) Discourtesy: Police Officer Adonis Long spoke discourteously to § 87(2)(b)

Allegation (E) Force: Police Officer Adonis Long used physical force against § 87(2)(b)

Allegation (F) Discourtesy: Police Officer Adonis Long acted discourteously toward § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) did not provide a statement to the CCRB because § 87(2)(b) stated that § 87(2)(b) would not be available for an interview (Board Review 05). The investigation moved forward without § 87(2)(b) statement since the above allegations were captured on BWC after consultation with the Deputy Chief of Investigations Elizabeth Seymour.

PO Saha's footage, located in IA #101, showed PO Long's entire interaction with § 87(2)(b) (Board Review 03). The video begins from the perspective of PO Saha standing across from PO Long in a moving subway car. At 00:31, the train stops, and PO Saha exits the car. PO Long can be seen talking to § 87(2)(b) inside of the train, but there is no audio. At 01:20, § 87(2)(b) gathers his belongings and exits the subway car. At 01:27, § 87(2)(b) enters the adjacent subway car. PO Saha and PO Long follow him and enter the train. At 01:38, PO Saha approaches § 87(2)(b) and tells him to get off the train. § 87(2)(b) responds, "I am not getting off the train because you're telling me to get off the train. Why am I the only person that has to get off?" PO Saha tells § 87(2)(b) to step off the train again. At 02:03, PO Long can be seen on the far side of the subway car. PO Long yells, "Step off the train!" § 87(2)(b) yells back, "I am not getting off the train." PO Long says, "Step off or I'm going to drag you off, step off or I am going to drag you off." § 87(2)(b) repeats that he is not going to step off the train. At 02:24, PO Long approaches § 87(2)(b) and says, "Get off the train. You are holding up the train for all of these people that are trying to go home." § 87(2)(b) responds, "How am I holding up the train when I am sitting here trying to go to Brooklyn." At 03:11, PO Long reaches his right hand toward § 87(2)(b) items that are on the seat next to him. § 87(2)(b) slapped PO Long's hand away from his bags. PO Long reaches both hands towards § 87(2)(b) and § 87(2)(b) pulls away from PO Long. At 03:15, PO Long grabs § 87(2)(b) left bicep. § 87(2)(b) puts his right hand on top of PO Long's hand, says, "Don't touch me," and pulls his arm free of PO Long's grasp in the opposite direction of PO Long. PO Long punches § 87(2)(b) in the face twice with a closed fist and pulls § 87(2)(b) off the subway by the arm and collar. § 87(2)(b) yells, "Stop," ducks his head, and pulls his body away from PO Long. At 03:25, PO Saha attempts to grab § 87(2)(b) right arm. PO Long grabs the back of § 87(2)(b) collar and says, "Get off the fucking train." PO Long throws § 87(2)(b) onto the platform where he lands on his back. At 03:37, PO Saha assists § 87(2)(b) in standing up and walks him to the wall opposite of the train tracks. At 03:41, PO Long kicks § 87(2)(b) items, which are already on the platform.

PO Long's BWC, located in IA # 100 of the digital case file, is consistent with PO Saha's regarding their initial interaction with § 87(2)(b) until the moment when PO Long kicks § 87(2)(b) belongings that are already on the platform (Board Review 03).

The video montage published by The Legal Aid Society, which contained segments of PO Long and

PO Saha's BWC footage, was consistent with PO Long and PO Saha's footage regarding this portion of the incident (Board Review 04).

PO Long (Board Review 06) testified that he and PO Saha were on a northbound 6 train near the front of the subway car when they first observed § 87(2)(b) outstretched across multiple subway seats. § 87(2)(b) was small in stature and weighed approximately 120 pounds. § 87(2)(b) had his bags near his legs on the seat next to him as well as beneath. When the train reached the 42nd Street Grand Central stop, PO Long told PO Saha that they were going to eject § 87(2)(b) at the next stop, which was 51st Street and Lexington Avenue. § 87(2)(b) was going to be ejected because he was in violation of MTA rules and regulations by occupying more than one seat. Once the train arrived at the 51st Street stop, PO Long approached § 87(2)(b) and told him that he needed to get off the train and leave the station. § 87(2)(b) was upset that he had to leave the train but complied with PO Long's instruction and exited the subway car. As soon as § 87(2)(b) exited, he reentered the train in an adjacent car and sat down. PO Saha entered the car and approached § 87(2)(b) who was sitting in the middle portion of the train. PO Long stood in the entrance and shined his flashlight to ensure that the train remained in the station temporarily. PO Long, who stood approximately 20 to 30 feet away, overheard PO Saha tell § 87(2)(b) to leave the train. § 87(2)(b) told PO Saha to leave him alone and repeated that he was not leaving the train. PO Long yelled to § 87(2)(b) that if he did not get off the train, he would drag him off the train. PO Long made that statement because up until that point, he and PO Saha had asked § 87(2)(b) to get off the train in a nice way and it had not been affective. PO Long wanted to be assertive and to let § 87(2)(b) know that whether he wanted to be on the train or felt he deserved to be on the train, he was not permitted to at that time. PO Long stated that he could have physically removed § 87(2)(b) from the train because he was refusing to leave voluntarily. § 87(2)(b) remained seated and refused to exit. PO Long entered the train and approached § 87(2)(b). Once he was in front of § 87(2)(b) PO Long told § 87(2)(b) that he needed to get off the train. § 87(2)(b) told PO Long that he was not going to get off the train. PO Long reached his right hand towards one of § 87(2)(b) bags on the seat next to him to remove it from the train. § 87(2)(b) slapped PO Long's hand. PO Long told § 87(2)(b) that he needed to get off the train and simultaneously reached for his items with his right hand the second time. § 87(2)(b) slapped PO Long's hand again and in the same movement, held PO Long's right wrist down and towards PO Long's firearm. During the interview, PO Long stood up and illustrated how his right arm naturally falls on his waistline where his firearm is located. PO Long used his left hand to hold onto his right wrist area to show how § 87(2)(b) held his (PO Long's) right hand near his firearm during the incident. PO Long pulled his right arm away from § 87(2)(b) and punched him in the face multiple times with a closed fist. PO Long could not recall where exactly on § 87(2)(b) face he made contact or how many times he punched § 87(2)(b). PO Long punched § 87(2)(b) because he wanted to break § 87(2)(b) grip and to create space between them so that PO Long could defend his firearm. § 87(2)(b) held onto the train pole next to the subway seat. PO Long pulled on § 87(2)(b) torso and arm area until he was able to break § 87(2)(b) grip. During that time, PO Long told § 87(2)(b) to "get off the fucking train" because he wanted to be assertive. PO Saha, while standing in the doorway, pulled on § 87(2)(b) arms to assist in removing him from the train. Once § 87(2)(b) grip was released, he fell out of the train face first onto the platform. PO Long did not fall with § 87(2)(b) to the ground. PO Saha walked with § 87(2)(b) to the wall of the subway platform while PO Long reentered the train to collect § 87(2)(b) belongings. PO Long picked up some of § 87(2)(b) items and kicked some of his other belongings. PO Long stated that he kicked § 87(2)(b) items because he wanted to get them out of the way and go back to controlling the situation with § 87(2)(b). PO Long added that tactically, he did not want to take his eyes off § 87(2)(b) in the event § 87(2)(b) harmed himself or someone else. Once § 87(2)(b) was off the train, PO Long observed that § 87(2)(b) was crying. PO Long could not ascertain why § 87(2)(b) was crying and could not recall if § 87(2)(b) made any statements at that time.

PO Saha's (Board Review 07) testimony was generally consistent with PO Long's regarding their initial observation of § 87(2)(b) their discussion about what next steps should be taken regarding § 87(2)(b) their initial approach to § 87(2)(b) and their interaction with § 87(2)(b) in the second subway car he reentered. PO Saha followed § 87(2)(b) into the subway car he reentered and told him that he needed to step off the train approximately four times. § 87(2)(b) stated, angrily, that he was not going to get off the train because he was going to Brooklyn. § 87(2)(b) was not making any physical movements at that time. The passengers on the train were getting angry because the train was being held at the station. PO Long entered the train from the opposite side and said to § 87(2)(b) "Step off the train or I'm gonna drag you off." § 87(2)(b) yelled that he was not going to get off the train. PO Long approached PO Saha and § 87(2)(b) and stood in front of § 87(2)(b) while PO Saha held the train door open. PO Long told § 87(2)(b) that he needed to get off the train, to which § 87(2)(b) responded, "I am not getting off the fucking train." § 87(2)(b) remained seated while holding onto the metal pole near the train entrance. PO Long reached for § 87(2)(b) shoulder in an attempt to pull him off the train. § 87(2)(b) slapped PO Long's hand in response, held onto the pole, and said that he was not getting off. PO Long punched the right side of § 87(2)(b) face with a closed fist. PO Saha could not recall how many times PO Long punched § 87(2)(b). PO Saha could not recall if he heard PO Long say, "Get off the fucking train" to § 87(2)(b). § 87(2)(b) continued to hold onto the pole. PO Saha was eventually able to release § 87(2)(b) hand from the pole. PO Saha did not assist in removing § 87(2)(b) from the train in any other way. PO Long dragged § 87(2)(b) off the train by his jacket and threw § 87(2)(b) onto the platform. PO Long then kicked § 87(2)(b) items off the train and onto the platform. PO Saha and PO Long got on either side of § 87(2)(b) held his arms, and walked him to the wall that lined the station opposite of the train track.

During his CCRB interview, PO Long was shown PO Saha's BWC footage beginning at 03:00 (Board Review 03). This footage shows PO Long reaching for § 87(2)(b) items on the subway seat with his right hand. § 87(2)(b) slaps PO Long's hand away from his bags. PO Long reaches both hands towards § 87(2)(b) and § 87(2)(b) pulls his body backwards away from PO Long. At 03:15, PO Long grabs onto § 87(2)(b) left bicep. § 87(2)(b) puts his hand on top of PO Long's hand, which is extended out in front of his body, and then pulls his own arm towards himself out of PO Long's grasp. § 87(2)(b) hand is not near PO Long's firearm at any point. During the interview, PO Long was asked if this was the portion of the incident that he referred to when he alleged that § 87(2)(b) held his (PO Long's) hand near his firearm, which was PO Long's reason for subsequently punching § 87(2)(b) (Board Review 05). PO Long responded, "Yes ma'am." At 1:10:09 in the interview recording, the undersigned stated that the footage appeared to show § 87(2)(b) pulling his arm away from PO Long and that it was not near his firearm. The undersigned asked if PO Long's testimony was that the footage showed § 87(2)(b) holding his hand near his firearm. PO Long replied, "Yes."

In the Threat, Resistance, Injury (TRI) incident report # § 87(2)(b) prepared by Sergeant Christopher Alzaraki of TB DT04 it is noted that PO Long used a hand strike and a forcible take down among other types of physical force (later discussed in Allegations G-K) against § 87(2)(b) (Board Review 08). The TRI does not note PO Long dragging § 87(2)(b) off the train.

In the Line of Duty (LOD) injury report prepared by PO Saha, Lieutenant Phillip Howard (also assigned to TB DT04 and PO Long, PO Long noted that he used hand strikes to prevent § 87(2)(b) from assaulting him and to gain control of § 87(2)(b). In the witness statement portion of the document, PO Saha wrote, "I observed that while my partner was trying to place the defendant under arrest he was aggressive and not listening to lawful commands. The defendant held the train and was cursing aggressively. My partner PO Long trying to control the situation; struck the defendant with his right hand and we tactically got the defendant off from the train so that train could resume service. In

this circumstance, my partner injured his right-hand wrist and defendant under arrest” (Board Review 09).

The narrative section of § 87(2)(b) arrest report states, “At T/P/O deft became irate when told to exit the train, due to deft being in violation of MTA rule 1050.7(J). Deft did reduce to leave after numerous lawful orders to do so. Deft did remain therein at which time officers attempted to take deft into custody, at which time deft did flail his arms and run away to prevent lawful arrest” (Board Review 01). The UF61 report prepared for this incident was consistent with the arrest report (Board Review 18).

PO Long’s MOS photo revealed PO Long to be heavy set and weighing 300 pounds (Board Review 10).

New York City Transit Rules and Regulations code 1050.7 states that no person on or in any facility or conveyance shall occupy more than one seat on a station, platform or conveyance; lie on the floor, platform, stairway, landing or conveyance; or block free movement on a station, stairway, platform, or conveyance (Board Review 11).

NYPD Patrol Guide Procedure 212-20 states that any person who violates any portion of NYCRR Part 1050, is subject to ejection from New York City Transit Facilities. When necessary to eject a passenger, an officer should: 1) Advise passenger of ejection and reason, 2) Permit passenger, who voluntarily leaves the property or shows a willingness to do so, to leave without interference, 3) Use no more force than is necessary to affect the ejection, if passenger refuses to leave. Generally, grasping the upper arm and forearm to escort the person off the system is considered using reasonable force necessary to affect the ejection (Board Review 12).

NYPD Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise to protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. When appropriate and consistent with personal safety. Members of the service will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force. In determining whether the use of force is reasonable, members of the service should consider the following: the nature and severity of the crime/circumstances, actions taken by subject, duration of the action, immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders, whether the subject is actively resisting custody, number of subject in comparison to the number of MOS, size, age, and condition of the subject in comparison to the MOS, subject’s violent history if known, presence of hostile crowd or agitators, subject apparently under the influence of a stimulant/narcotic which would affect the pain tolerance or increase the likelihood of violence (Board Review 13).

NYPD Administrative Guide 304-10 states that circumstances in which false or misleading official statements are made include, but are not limited to, verbal statements made pursuant to a statutory or procedural requirement, or under oath during a civil, administrative, or criminal proceeding, in addition to written statements made in a sworn document, including affirmations made in Department and non-Department forms (Board Review 14).

DAO-DCT Case Number 2017-17005 held that profane remarks, made during a stressful situation or while an officer is trying to get a chaotic situation under control are not misconduct (Board Review 15).

NYPD Patrol Guide Procedure 200-02 states that members of the service pledge to protect the lives and property of New York Citizens, respect the dignity of each individual and rendered services with courtesy and civility (Board Review 16).

§ 87(2)(g) BWC footage showed § 87(2)(b) occupying more than one seat on the train, the investigation determined that § 87(2)(b) was in violation of MTA Rule 1050.7. PO Long testified that he told § 87(2)(b) “Get off the train or I’m going to drag you off” because at the time he made that statement, he could have physically removed § 87(2)(b) from the train because he was being ejected for occupying more than one seat and was refusing to leave voluntarily. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

PO Long testified that he punched § 87(2)(b) in the face so that he could defend his firearm because § 87(2)(b) slapped his hand and in the same movement, held his right wrist down and towards his firearm. PO Saha’s BWC footage shows § 87(2)(b) pulling away from PO Long immediately before PO Long punched him. The footage does not show § 87(2)(b) reach near or around PO Long’s firearm at any point. When shown PO Saha’s BWC footage, which captures § 87(2)(b) pulling away from PO Long and not reaching for PO Long’s firearm, PO Long insisted that § 87(2)(b) was reaching for his firearm at that time. Rather than amending his testimony when presented with the evidence contradicting his earlier statement, PO Long insisted that his answer was the same: § 87(2)(b) was reaching for his firearm, which is why PO Long punched him. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

It is undisputed that § 87(2)(b) refused to exit the train. The BWC footage shows § 87(2)(b) verbally refusing to step off the train despite being instructed to do so by PO Saha and PO Long. The footage also shows § 87(2)(b) slapping PO Long’s hand when PO Long reached for his belongings, pulling away from PO Long when PO Long held onto his arm, and PO Long punching § 87(2)(b) in the face twice with a closed fist. PO Long testified that § 87(2)(b) slapped his hand and in the same movement, held PO Long’s right wrist down and towards PO Long’s firearm. PO Long further testified that he punched § 87(2)(b) to defend his firearm. However, the BWC footage did not reveal § 87(2)(b) reaching for PO Long’s firearm at any point. Furthermore, § 87(2)(b) committed a mild, nonviolent, civil infraction by not exiting the train. On his own account, PO Long stated that § 87(2)(b) was small in stature and according to PO Long’s testimony, PO Long was twice the size of § 87(2)(b).

§ 87(2)(b) § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

PO Long testified that he told § 87(2)(b) “Get off the fucking train” when he was attempting to remove him off the train because he wanted to be assertive with § 87(2)(b) § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

PO Long stated that § 87(2)(b) fell out of the train after PO Saha released his grasp from the subway pole and denied dragging/pulling him out. PO Saha testified that after he released § 87(2)(b) grasp from the pole, PO Long dragged § 87(2)(b) off the train by his jacket and threw him onto the platform, which his BWC corroborated. As such, the investigation determined that PO Long pulled § 87(2)(b) off the train and threw him to the ground. In addition, given the close proximity of both actions (pulling and throwing to the ground) in time, the investigation is treating this as one allegation rather than two separate ones. § 87(2)(g)

Furthermore, the BWC shows that little time had passed from the time PO Long punched § 87(2)(b) to when he dragged and threw him off the train. Based on this, the investigation determined that not enough time had elapsed for PO Long to evaluate whether his initial force was effective and thus, pulling and dragging § 87(2)(b) off the train immediately after punching him on the face § 87(2)(g)

The BWC footage shows PO Long kicking § 87(2)(b) belongings, which are already on the platform, further onto the platform after § 87(2)(b) had been removed from the train. During this time, PO Saha stood against the wall that lined the platform with § 87(2)(b) PO Long testified that he kicked § 87(2)(b) items because he wanted to get them out of the way so that he could go back to controlling the situation with § 87(2)(b) However, the investigation determined that since § 87(2)(b) items were already off the train and out of the way at the time PO Long kicked them and that he did not appear to do so in an urgent matter, § 87(2)(g)

Allegation (G) Force: Police Officer Adonis Long used pepper spray against § 87(2)(b)

Allegation (H) Force: Police Officer Adonis Long used pepper spray against § 87(2)(b)

Allegation (I) Force: Police Officer Adonis Long used physical force against § 87(2)(b)

Allegation (J) Force: Police Officer Adonis Long used a chokehold against § 87(2)(b)

Allegation (K) Force: Police Officer Adonis Long used a chokehold against § 87(2)(b)

It is undisputed that PO Long deployed his pepper spray against § 87(2)(b) twice. Whether PO Long pulled § 87(2)(b) hair and used a chokehold against § 87(2)(b) twice remains in dispute.

PO Saha's BWC footage most clearly captures PO Long deploying his pepper spray against § 87(2)(b) (Board Review 03). At 03:47, as PO Long is finished kicking § 87(2)(b) items further onto the platform, § 87(2)(b) walks slowly against the wall of the platform, away from PO Saha. PO Long approaches § 87(2)(b) stands in front of him, and § 87(2)(b) stops walking. PO Long yells, "Sit down! Sit down!" § 87(2)(b) cries, "Why you fucking hit me?" PO Long says, "Sit. Down." PO Long orders § 87(2)(b) to sit down on the floor again. § 87(2)(b) remains standing, while crying, and asks PO Long again why he hit him. At 04:02, PO Long unholsters his pepper spray and orders § 87(2)(b) to sit on the floor again. § 87(2)(b) continues to stand. PO Saha stands next to PO Long and in front of § 87(2)(b) At 04:11, PO Long deploys his pepper spray into § 87(2)(b) face from approximately five feet away. § 87(2)(b) screams in response. At 04:14, PO Long deploys

his pepper spray into § 87(2)(b) face a second time. § 87(2)(b) turns away from PO Long, cries “Stop,” and covers his head with his hands as he stumbles away from the officers down the platform. There are no civilians present on the platform during this time.

PO Long’s BWC footage most clearly captured him pulling § 87(2)(b) hair from behind as well as the two separate times he put his hand around § 87(2)(b) neck (Board Review 02). At 04:18, after PO Long pepper sprays § 87(2)(b) a second time, § 87(2)(b) covers his face and stumbles away from the officers while facing the wall. PO Long follows him. At 04:26, § 87(2)(b) is crying while squatting on the ground with his face in his hands. It is unclear how § 87(2)(b) got to the ground. PO Saha pulls § 87(2)(b) jacket from behind. § 87(2)(b) stands up again and PO Saha and PO Long put him face first against the wall. At 04:31, both of § 87(2)(b) hands are in front of his face as PO Saha holds the back of his arms. § 87(2)(b) continues to cry. At 04:42, blood can be seen on the left side of § 87(2)(b) face near his ear. § 87(2)(b) left eye is also swollen. PO Long orders § 87(2)(b) to get on the floor. § 87(2)(b) remains standing and continues to cry. At 04:48, PO Long grabs the upper part of § 87(2)(b) back from behind as PO Saha brings § 87(2)(b) arms behind his back. PO Saha attempts to handcuff § 87(2)(b) but § 87(2)(b) tenses his arm, making it difficult for PO Saha to pull them behind his back. PO Long orders § 87(2)(b) to put his hands behind his back twice. A physical struggle ensues and PO Long’s BWC falls to the floor. From 05:02 to 05:29, § 87(2)(b) can be heard screaming, “I can’t breathe. Stop. I can’t breathe. I can’t breathe. I can’t breathe.” At 05:33, PO Saha handcuffs § 87(2)(b) against the wall. At 05:50, PO Long picks up his BWC, affixes it to his uniform, and walks away from PO Saha and § 87(2)(b) briefly. At 06:02, PO Long walks back towards § 87(2)(b) and PO Saha. § 87(2)(b) is standing and then goes limp, leaning against PO Saha, while saying, “Please, please.” PO Saha orders § 87(2)(b) to stand up and to not resist. § 87(2)(b) stands against the wall with his hands behind his back. At 06:14, PO Long grabs § 87(2)(b) left arm and pushes him against the wall. § 87(2)(b) eyes are closed as he cries, “Oh my god, oh my god, oh my god.” At 06:24, § 87(2)(b) says, “Please, I think I am going to die.” PO Saha tells § 87(2)(b) to sit down. PO Long’s BWC is briefly obscured by his jacket. At 06:51, PO Long holds onto § 87(2)(b) arms from behind and says, “Stop kicking. Stop kicking.” The recording does not capture what § 87(2)(b) is doing with his feet/legs. § 87(2)(b) continues to stand face first against the wall. At 06:57, PO Long says, “Listen I am going to take you to the ground.” PO Long pulls § 87(2)(b) hair from behind and lowers him to the ground. § 87(2)(b) is no longer in the frame once he is on the ground. § 87(2)(b) says, “Please. Please. Please I’m going to die.” At 07:37, § 87(2)(b) says that he cannot breathe. At 07:44, PO Long orders PO Saha to go and secure § 87(2)(b) property. PO Saha exits the frame and PO Long continues to stand over § 87(2)(b) who is face first on the ground in a fetal position. The footage does not capture what § 87(2)(b) is doing with his body at this time. At 08:12, PO Long goes over the radio and says, “Yeah, it’s a combative EDP. He’s handcuffed.” At 08:15, § 87(2)(b) says, “Can I get up please? Stop, please. I am off the train. I am off, I am off.” PO Long continues to hold § 87(2)(b) down, but the footage does not show where on § 87(2)(b) body PO Long is holding. At 08:32, PO Long has his hand on § 87(2)(b) head and says, “Just relax.” At 09:09, PO Long puts his hand around the side of § 87(2)(b) neck so that his fingers are beneath § 87(2)(b) ears and his palm on § 87(2)(b) throat. PO Saha grabs PO Long’s arm and says, “Give me, give me, I’ve got it.” PO Long says, “Don’t pull me off” to PO Saha. PO Saha responds, “Long, I got it.” PO Long tells PO Saha to “get his legs.” The officers move § 87(2)(b) who is still on the ground, away from the wall. At 09:25, § 87(2)(b) briefly sits up. From 09:28 to 09:33, PO Long puts his hand around the side of § 87(2)(b) neck as he lowers his head to the ground. Once § 87(2)(b) is on the ground, PO Long adjusts his hand so that he is holding § 87(2)(b) down with his entire grip around § 87(2)(b) throat close to his chin. PO Saha attempts to remove PO Long’s hand from § 87(2)(b) neck. At 09:34, PO Long says, “Saha, if you fucking...” PO Saha interrupts and says, “I got it.” PO Saha reaches for PO Long’s hands again. As PO Long stands up, § 87(2)(b) kicks his legs upwards. PO Saha grabs onto § 87(2)(b) legs. PO Long tells PO Saha to control

§ 87(2)(b) legs. PO Saha holds § 87(2)(b) legs on the ground. At 09:44, § 87(2)(b) sits in the upright position. PO Saha remains on the ground with § 87(2)(b) as PO Long stands above them. At 09:56, PO Layton and PO Demchenko run down towards § 87(2)(b) PO Long, and PO Saha. The rest of PO Saha's footage shows additional officers responding to the location and him transporting § 87(2)(b) to the hospital.

PO Saha's BWC recording also captures PO Long's hand around § 87(2)(b) neck, but from a different angle (Board Review 03). At 07:53, after § 87(2)(b) is handcuffed, PO Saha walks towards the end of the platform to gather § 87(2)(b) items. § 87(2)(b) can be heard yelling "God, Please!" in the background. PO Saha picks up § 87(2)(b) items and walks back to put them next to where PO Long and § 87(2)(b) are. PO Long holds § 87(2)(b) down so that he is leaning over his knees, which are beneath him, while his hands are handcuffed behind his back. At 08:43, PO Long puts his hand on the right side of § 87(2)(b) head as he holds him down. PO Saha walks past PO Long and § 87(2)(b) to continue collecting § 87(2)(b) items. PO Saha walks back and stands next to PO Long, who is leaning against the wall above § 87(2)(b) as he remains on the ground. At 09:04, PO Long puts his right hand around the front of § 87(2)(b) neck. § 87(2)(b) face is red as he opens his mouth. PO Saha grabs PO Long's arm, pulls, and says, "Give me, give me, I've got it." PO Long tells PO Saha not to pull him off § 87(2)(b) PO Saha responds, "Long, I got it." PO Saha walks to the other side of PO Long. § 87(2)(b) kicks his legs. PO Long tells PO Saha to "get his legs." The officers move § 87(2)(b) who is still on the ground, away from the wall closer to the middle of the platform. At 09:14, PO Saha attempts to secure § 87(2)(b) legs but § 87(2)(b) kicks his legs away PO Saha, towards PO Long. At 09:19, PO Saha stands above § 87(2)(b) while PO Long holds down § 87(2)(b) leg. § 87(2)(b) sits up right briefly. PO Saha repeatedly tells PO Long that "he's (PO Saha) got it." At 09:24, PO Long puts his right hand around the side of § 87(2)(b) neck and lowers him to the ground. At 09:27, PO Saha stands above PO Long whose right hand is grasped around the entirety of § 87(2)(b) neck. § 87(2)(b) face appears red and he stopped kicking his legs. PO Saha grabs onto PO Long's right bicep and attempts to pull it. At 09:34, PO Long says, "Saha, if you fucking." PO Saha responds, "I got it." PO Long stands up. The rest of the footage is consistent with PO Long's recording as summarized above.

PO Long (Board Review 06) testified that he determined § 87(2)(b) to be an emotionally disturbed person once he was off the train because § 87(2)(b) mood had shifted and behavior changed since the beginning of the incident. § 87(2)(b) went from being compliant, to verbally abusive, to crying once he was off the train. PO Long approached § 87(2)(b) who stood with PO Saha against the wall opposite of the subway tracks, after moving § 87(2)(b) belongings. § 87(2)(b) may have complained about being in pain at that time, although PO Long could not recall for certain. PO Long observed that § 87(2)(b) was bleeding from either his nose or his mouth and was generally disheveled. PO Long ordered § 87(2)(b) to get down on the ground approximately five or six times because he § 87(2)(b) would be less of a threat if he was down on the ground as opposed to standing, where § 87(2)(b) could have "squared off." PO Long did not want to have to use physical force against § 87(2)(b) again. § 87(2)(b) remained standing and asked PO Long why he needed to get on the ground. PO Long then deployed his pepper spray into § 87(2)(b) face from approximately five feet away because he did not "want to hurt him or physically harm him to get his compliance." In response, § 87(2)(b) remained standing and "flailed" his arms. Within seconds of his first deployment of pepper spray, PO Long pepper sprayed § 87(2)(b) a second time. PO Long stated that based on his experience, when pepper spray is introduced into a situation involving an emotionally disturbed person, it is often ineffective. PO Long added that he pepper sprayed § 87(2)(b) a second time because the first deployment did not incapacitate § 87(2)(b) and he wanted to gain § 87(2)(b) compliance. § 87(2)(b) continued to stand and was "emotional, distressed, and continued to cry out." PO Long could not recall exactly what § 87(2)(b) said at that time, but believed he was asking why PO Long hit and pepper sprayed him. PO Long stated that there was such

a short amount of time between when § 87(2)(b) was initially on the subway platform to when he was pepper sprayed that there was not a lot of physical contact between § 87(2)(b) PO Long, and PO Saha. PO Long explained that although physically hitting § 87(2)(b) would have been the lower form of force, he decided to use the pepper spray because the area was clear, and it was a nonphysical form of force that he hoped would gain § 87(2)(b) compliance. PO Long could not recall if he warned § 87(2)(b) prior to deploying the pepper spray. PO Long stated that if he had chosen to hit § 87(2)(b) at that time, it would have injured him. After being pepper sprayed, § 87(2)(b) ran down the subway platform. PO Long ran after him. § 87(2)(b) voluntarily knelt on the ground in a “cowering position.” PO Long tried to gather § 87(2)(b) hands but § 87(2)(b) continued to move his hands away from PO Long. PO Long ordered § 87(2)(b) to not resist, to relax, and that he wanted to help him and was going to call EMS. § 87(2)(b) was not under arrest at that time, but PO Long wanted to control § 87(2)(b) until EMS and back up arrived. During that time PO Saha attempted to assist PO Long in controlling § 87(2)(b) arms but was also “in the way.” PO Long stated that PO Saha was not helping effectively: PO Long was trying to get § 87(2)(b) arms while PO Saha was simultaneously trying to hold § 87(2)(b) down. PO Saha moved from PO Long’s side, to in front of him, to in between PO Long and § 87(2)(b). PO Long could not recall if he pulled § 87(2)(b) hair during this portion of the incident but stated it was possible since he wanted to avoid getting § 87(2)(b) blood and spit on him. After § 87(2)(b) was handcuffed, PO Long held § 87(2)(b) body down keeping his upper body on top of § 87(2)(b). During this time, PO Long attempted to secure the rest of § 87(2)(b) body. § 87(2)(b) kicked his legs up towards PO Long’s shoulder and chest area. PO Long’s left hand was on § 87(2)(b) torso/chest area and his right hand was attempting to control the right side of § 87(2)(b) body. § 87(2)(b) crunched his knees and legs towards his chest in a fetal position, which put his knees and thigh area directly beneath PO Long’s chest. In the process of controlling § 87(2)(b) body, PO Long’s hands unintentionally moved to § 87(2)(b) lower neck/upper chest area. PO Long did not recall having his hand around § 87(2)(b) neck at any point. During the interview, PO Long made an “L” shape with his hand and put the space between his index finger and thumb beneath his neck/on his upper chest area, illustrating the physical contact he made with § 87(2)(b) neck. During that time, § 87(2)(b) complained of difficulty breathing, which PO Long attributed to him having anxiety or a panic attack. PO Long stated that based on his training and experience, if someone complains of difficulty breathing, an officer should ensure that they are not obstructing their breathing and should get them into a position, whether that means standing up or laying down, so that they are able to breathe. In this situation with § 87(2)(b) PO Long did not believe he obstructed § 87(2)(b) breathing at any point and did not think § 87(2)(b) was in danger of choking or asphyxiation. PO Long stated that he moved his body to address § 87(2)(b) complaint of his difficult breathing: PO Long went from being on top of § 87(2)(b) while he was flat on the ground to a position where he was only holding onto § 87(2)(b) head/chest area. § 87(2)(b) continued to move the bottom half of his body including his legs. At some point during this portion of the incident, § 87(2)(b) made physical contact with PO Long’s right shoulder and hand, which caused injuries. PO Long and PO Saha continued to hold § 87(2)(b) on the ground until six additional officers arrived at the location. At that point, PO Long’s hand was swollen and in pain, so he stepped back and let the additional officers take over the situation with § 87(2)(b). The officers were able to control § 87(2)(b) on the ground until EMS arrived. EMS arrived approximately 15 minutes later § 87(2)(b) was taken to the hospital since he had been pepper sprayed and PO Long was taken to the hospital because he sustained an injury to his hand.

PO Saha (Board Review 07) testified that he and PO Long ordered § 87(2)(b) to give them his hands once § 87(2)(b) was against the wall opposite of the train. § 87(2)(b) made various statements at that time, however, PO Saha could not recall exactly what he said. § 87(2)(b) moved his body and attempted to walk back and forth. PO Long ordered § 87(2)(b) to sit down, which § 87(2)(b) refused to do. PO Long unholstered his pepper spray and told § 87(2)(b) that he was going to pepper spray him if he did not sit down. § 87(2)(b) continued to stand. PO Long deployed his

pepper spray once at § 87(2)(b). PO Saha could not recall how many times PO Long pepper sprayed § 87(2)(b). After being pepper sprayed, § 87(2)(b) ran a few steps down the platform away from the officers. § 87(2)(b) was approximately four feet away from the train, which concerned PO Saha. § 87(2)(b) said that his eyes were in pain and that he was having a difficult time breathing. PO Long and PO Saha ran after § 87(2)(b) and held him against the wall by his jacket so that he could not move. PO Long and PO Saha placed § 87(2)(b) into handcuffs. During that time, § 87(2)(b) kicked his legs and attempted to move his hands. PO Long went over the radio and requested an additional unit as well as an ambulance. After § 87(2)(b) was handcuffed, PO Long ordered PO Saha to gather § 87(2)(b) items and his (PO Long's) backpack while he (PO Long) held § 87(2)(b). PO Saha walked down the platform and collected § 87(2)(b) items and PO Long's backpack. PO Saha did not observe what went on between PO Long and § 87(2)(b) while he went to retrieve the items because his back was to them. PO Saha walked back towards PO Long and § 87(2)(b) and observed that § 87(2)(b) was laying on the ground while PO Long held onto § 87(2)(b) hands, which were behind his back. PO Saha did not observe how § 87(2)(b) got to the ground. PO Saha did not see PO Long pull § 87(2)(b) hair. § 87(2)(b) continued to kick his legs and complain about difficulty breathing. PO Saha observed PO Long hold onto § 87(2)(b) neck from the front, which PO Saha believed was the result of § 87(2)(b) moving around. PO Saha pulled PO Long's hand off § 87(2)(b) neck and said, "I got it, I got it." PO Saha removed PO Long's hand from § 87(2)(b) neck area because he was concerned that PO Long could suddenly pull § 87(2)(b) neck and PO Saha wanted PO Long to know that he had a grip on § 87(2)(b) as well. PO Saha and PO Long attempted to restrain § 87(2)(b) on the ground by holding onto § 87(2)(b) jacket. Because § 87(2)(b) continued to kick his legs, PO Long's hand slipped upwards to § 87(2)(b) neck a second time. PO Saha attempted to take PO Long's hand off of § 87(2)(b) neck again. In response to PO Saha attempting to remove his hand, PO Long said, "Saha, what are you doing?" Moments later PO Saha and PO Long were able to secure § 87(2)(b) leg and PO Saha sat § 87(2)(b) in an upright position. A couple of minutes later, approximately seven officers, including PO Burke, PO Wood, PO Layton, PO Demenchenko, and Sgt. Alzaraki arrived at the location. § 87(2)(b) remained seated on the ground. PO Saha eventually transported § 87(2)(b) with EMS to § 87(2)(b) Hospital in Manhattan where he remained for approximately two hours to be treated for the pepper spray.

During the interview, PO Long was shown PO Saha's BWC footage (Board Review 03). From 04:00 to 05:00, the footage shows § 87(2)(b) standing against the subway wall while crying and saying, "Why are you fucking hitting me?" PO Long orders § 87(2)(b) to sit down three times. PO Long then deploys his pepper spray. § 87(2)(b) covers his face and proceeds to walk sideways along the wall. § 87(2)(b) does not flail his arms as PO Long had previously stated. When asked about this inconsistency, PO Long amended his testimony, and stated that § 87(2)(b) was not flailing his arms at that time but that he did so when they attempted to handcuff him (Board Review 06). From 09:04 to 09:09, the same footage shows PO Long's hand around § 87(2)(b) neck. PO Long maintained that he did not have his hand around § 87(2)(b) neck, but rather near § 87(2)(b) collarbone area. PO Long stated that during that time, he was trying to control § 87(2)(b) legs with his free hand. From 09:10 to 09:33 of the same footage, PO Long and PO Saha move § 87(2)(b) away from the wall so that he is laying on his back closer to the middle of the platform. At 09:22, § 87(2)(b) sits upright and PO Long lowers § 87(2)(b) back to the ground with his hand around § 87(2)(b) neck. After reviewing the footage, PO Long maintained that his hand was not around § 87(2)(b) neck, but on his upper chest area. PO Long stated that he had his hand in that position because he was trying to control § 87(2)(b) shoulders and that his hand shifted because § 87(2)(b) was still moving and rotating his body. PO Long stated that the position of his hand on § 87(2)(b) lower neck/upper chest area was inadvertent and a result of § 87(2)(b) rotating his body as he (PO Long) tried to control § 87(2)(b) upper and lower body.

PO Long was also shown his BWC footage, beginning at approximately 06:50 (Board Review 02). The footage shows PO Long pulling § 87(2)(b) hair from behind as he lowers § 87(2)(b) face towards the ground. Reviewing the footage refreshed PO Long's memory of this portion of the incident. (Board Review 06) PO Long stated that he pulled § 87(2)(b) hair because he wanted to control § 87(2)(b) head to prevent his blood and bodily fluids from getting on him.

In the TRI incident report # § 87(2)(b) prepared by Sgt. Alzaraki it is noted that PO Long wrestled and grappled, used pepper spray, and a forcible take down during this incident. Under the "Members Involved" section for PO Long, there is a section that reads the following, "Actions prohibited by PG 221-01," to which Sgt. Alzaraki marked "yes." The narrative portion of the TRI states, "After reviewing the BWC PO Long while attempting to control deft with his hand on upper back and head the deft did twist his body and PO Long's hand did end up around deft's neck area for approximately two seconds" (Board Review 08).

Sgt. Alzaraki (Board Review 17) stated that did he not witness the above-described incident but responded to the scene afterwards and filled out a TRI for it. Sgt. Alzaraki testified that he reviewed PO Saha and PO Long's BWC footage prior to filling out the TRI. Sgt. Alzaraki stated that reviewing their footage informed how he filled out the Supervisor's section of the TRI because he was able to see the specific actions taken by each officer from the beginning to the end of the incident. While reviewing the BWC footage, Sgt. Alzaraki saw PO Long put his hands around § 87(2)(b) neck. Sgt. Alzaraki stated that PO Long's hands around § 87(2)(b) neck "alarmed him." Sgt. Alzaraki did not consider what he observed on the part of PO Long to be a chokehold, but he recognized that PO Long's hand was on § 87(2)(b) neck for a couple of seconds and that it needed to be investigated by the "higher ups."

During the interview, Sgt. Alzaraki was shown the TRI he prepared (Board Review 17, 08). Under the "Members Involved" section, specifically for PO Long, there is a section that reads "Actions prohibited by PG 221-01" to which Sgt. Alzaraki marked "yes." Sgt. Alzaraki stated that he marked "yes" because PO Long had his hand on § 87(2)(b) neck, which was prohibited. Next to that section is another section that reads "Alleged/suspected excessive force" Sgt. Alzaraki marked "no." Sgt. Alzaraki stated that he marked "no" because PO Long having his hand on § 87(2)(b) neck looked "incidental" to them being on the floor.

No Medical Treatment of Prisoner Report (MTPR) was prepared for this incident (Board Review 24).

Since the investigation was unable to speak with § 87(2)(b) his medical records pertaining to this incident could not be obtained.

The "details" section of § 87(2)(b) arrest report states, "At T/P/O/ deft became irate when told to exit the train, due to deft being in violation of MTA Rule 1050.7(J). Deft did refuse to leave after numerous lawful orders to do so. Deft did remain therein at which time officers attempted to take deft into custody at which time deft did flail his arms and run away to prevent lawful arrest" (Board Review 01). The Complaint Report (UF-61) for this incident was consistent with the arrest report (Board Review 18).

In the LOD report, prepared by PO Saha, PO Long, and Lt. Howard, PO Long acknowledged discharging his pepper spray (Board Review 09)

NYPD Patrol Guide Procedure 221-07 stated that the use of Oleoresin Capsicum Pepper Spray ("OC spray") may be used to gain or maintain control of persons who are actively resisting arrest or lawful custody or exhibiting active aggression, or to prevent individuals from physically injuring themselves,

members of the service, or other persons. In an effort to gain voluntary compliance, members of the service should advise that the O.C. pepper spray will be used before applying such force, if feasible. The section says not to use O.C. pepper spray on subject who passively resist. The same procedure defines active resistance as physically evasive movements to defeat a member of the service's attempt at control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody. Passive resistance is defined as minimal physical actions to prevent a member from performing their lawful duty. For example, a subject failing to comply with a lawful command and stands motionless and/or a subject going limp when being taken into custody (Board Review 19).

NYPD Patrol Guide Procedure 212-13 defines an emotionally disturbed person (EDP) as a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is like to result in serious injury to himself or others. When there is time to de-escalate, all the time necessary to ensure the safety of all individuals concerned will be used. The safety and well-being of the EDP, as well as all persons present is of paramount concern.

NYPD Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise to protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. When appropriate and consistent with personal safety. Members of the service will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force. In determining whether the use of force is reasonable, members of the service should consider the following: the nature and severity of the crime/circumstances, actions taken by subject, duration of the action, immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders, whether the subject is actively resisting custody, number of subject in comparison to the number of MOS, size, age, and condition of the subject in comparison to the MOS, subject's violent history if known, presence of hostile crowd or agitators, subject apparently under the influence of a stimulant/narcotic which would affect the pain tolerance or increase the likelihood of violence (Board Review 13).

NYPD Patrol Guide Procedure 221-01 prohibits members of the service to use a chokehold at any time. A chokehold shall include, but is not limited to, any pressure to the throat or windpipe, which may prevent or hinder breathing to reduce intake of air (Board Review 13).

The BWC showed PO Long ordering § 87(2)(b) to sit down three times before deploying his pepper spray. During that time, § 87(2)(b) remained standing against the wall and did not actively resist at any point. After the first deployment of pepper spray, § 87(2)(b) turned away from PO Long, at which point PO Long deployed his pepper spray a second time. PO Long testified that he used his pepper spray the first time because he did not want to physically hurt or harm § 87(2)(b) to get his compliance, while recognizing that a lower form of force could have been used to gain it. On his own account, PO Long stated that after the first deployment of pepper spray, § 87(2)(b) remained standing and "flailed" his arms. The BWC shows that although § 87(2)(b) continued to stand, he did not move his arms in any way as PO Long alleged. PO Long stated that based on his experience, pepper spraying an emotionally disturbed person is often "ineffective," which is why he decided to pepper spray § 87(2)(b) a second time since the first deployment did not incapacitate § 87(2)(b) and he believed using physical force would have been more harmful. By not sitting down as PO Long ordered him to do, § 87(2)(b) was failing comply with a lawful order. NYPD Patrol Guide Procedure 221-07 states that failing comply with a lawful order is a form of passive resistance and that officers are prohibited from using pepper spray against individuals who passively resist. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) Although § 87(2)(b) turned away from PO Long after being pepper sprayed the first time, the investigation determined that not enough time had elapsed for PO Long to determine whether or not the first deployment of spray was effective

§ 87(2)(g) Furthermore, the investigation does not credit PO Long's intent for using this method given that he admitted that he could have used a lower level of force at that time but chose not to and the fact that he acknowledged that pepper spray is an ineffective means of force in situations involving emotionally disturbed individuals. § 87(2)(g)

The BWC footage shows PO Long holding § 87(2)(b) against the wall by his jacket after he is handcuffed. During that time, PO Long ordered § 87(2)(b) to stop kicking. § 87(2)(b) cried and his face was evidently bleeding. The footage does not capture § 87(2)(b) spitting or what § 87(2)(b) was doing with his feet/legs at that point. PO Long then informed § 87(2)(b) that he was going to take him to the ground and proceeded to do so by pulling § 87(2)(b) hair from behind as he lowered him to the ground. PO Long testified that he pulled § 87(2)(b) hair because he wanted to control § 87(2)(b) head to prevent his blood and bodily fluids from getting on him. § 87(2)(g)

Furthermore, the investigation determined that although § 87(2)(b) was bleeding during that time, he was not actively trying to spread his bodily fluids, which were a result of the previous force PO Long used against him. § 87(2)(g)

PO Long testified that § 87(2)(b) began complaining about difficulty breathing before he had his hand on § 87(2)(b) neck, however, he attributed this to § 87(2)(b) being anxious or having a panic attack. PO Long stated that based on his training and experience if someone complains of difficulty breathing, an officer should ensure that they are not obstructing their breathing and should get them into a position, whether that means standing up or laying down, so that they are able to breathe. PO Long stated that he did not believe he obstructed § 87(2)(b) breathing at any point, that § 87(2)(b) was not in danger of choking or asphyxiation, and that he ultimately moved § 87(2)(b) body to address § 87(2)(b) complaint. PO Long denied having his hand around § 87(2)(b) neck at any point and interpreted his action as having his hand at the base of § 87(2)(b) neck/upper torso area and that the positioning of his hand shifted due to § 87(2)(b) moving his body. The BWC footage shows PO Long putting his hand around § 87(2)(b) neck two separate times within a time span of approximately 24 seconds while § 87(2)(b) was handcuffed. Although § 87(2)(b) does not say anything when PO Long has his hand around his neck, both times his face appears red and his mouth is open. PO Saha testified that upon observing PO Long's hand around § 87(2)(b) neck, he attempted to intervene because he was concerned about § 87(2)(b). During this time, PO Long pushed PO Saha away and told PO Saha not to pull him off. Sgt. Alzaraki testified that he was alarmed when he observed PO Long's hand around § 87(2)(b) neck in the BWC footage and recognized that it was prohibited by the Patrol Guide. This was also reflected in the TRI report he prepared. § 87(2)(g)

Although PO Long stated that his hand was near § 87(2)(b) neck as a result of § 87(2)(b) moving, the investigation does not credit PO Long's reason because he had his hand around § 87(2)(b) neck for an extended amount of time and did not change the position of his hand at any point. § 87(2)(g)

§ 87(2)(g) Furthermore, the investigation does not credit PO Long's testimony that § 87(2)(b) was not in danger of choking or asphyxiation since § 87(2)(b) was handcuffed during this time and PO Long, who is twice the size of § 87(2)(b) was on top of § 87(2)(b) body while applying pressure to his neck, which would reasonably hinder § 87(2)(b) ability to breathe. Finally, video evidence and PO Saha's testimony revealed that PO Saha recognized the danger in PO Long's actions because he attempted to remove PO Long's hand from § 87(2)(b) neck each time he had it there, while PO Long did not recognize the potential danger his actions were bringing § 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party (Board Review 21).
- PO Long has been a member of service for 17 years and has been a subject in five CCRB complaints and 10 allegations, of which one was substantiated.
 - 201909579 involved a substantiated allegation of physical force against PO Long. The Board recommended Command Discipline B and the NYPD did not impose any disciplinary action.
- PO Saha has been a member of the service for two years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b) behalf claiming false arrest and imprisonment, excessive detention, assault, battery, trespass on the

person, trespass to chattels, conversion, malicious use and abuse of process, malicious prosecution, malicious and retaliatory prosecution, intentional infliction of emotional distress, negligent infliction of emotional distress, negligence, negligent hiring, screening, retention, supervision, and/or training, and denial of rights to communicate by phone while in custody. In the “Total Amount Claimed” field of the claim, it says \$0.00. § 87(2)(b) wrote that § 87(2)(b) damages were not zero, but the document would not permit an entry stating that § 87(2)(b) damages would be determined by a jury. § 87(2)(b), § 87(2)(a)

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 3

Investigator:	<u>Charis Jones</u> Signature	<u>Inv. Charis Jones</u> Print Title & Name	<u>03/16/2022</u> Date
---------------	----------------------------------	--	---------------------------

Squad Leader:	<u>Olga Golub</u> Signature	<u>IM Olga Golub</u> Print Title & Name	<u>03/16/2022</u> Date
---------------	--------------------------------	--	---------------------------

Reviewer:	<u></u> Signature	<u></u> Print Title & Name	<u></u> Date
-----------	----------------------	-------------------------------	-----------------